

REMARKS

Upon entry of the present amendment, claims 1 and 3-6 will be pending in the present application. Applicants acknowledge the Examiner's statement that the Restriction Requirement in the Office Action of October 16, 2008 is withdrawn, and claim 5 has been rejoined with claims 1-4 and 6. Applicants have amended claim 1 to recite the full name "matrix metalloproteinase 12 (MMP12)." Claim 1 has also been amended to include the limitations of claim 2. Claim 2 and withdrawn claims 7-15 have been canceled without prejudice or disclaimer. Claim 5 has been rewritten in independent form. No new matter has been added.

Claim Objections

Claim 1 was objected to because it recites the abbreviation "MMP12." Claim 1 has been amended to recite the full name "matrix metalloproteinase 12 (MMP12)." Accordingly, Applicants respectfully request that this objection be withdrawn.

Claim 5 was objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Claim 5 has been rewritten in independent form. Accordingly, Applicants respectfully request that this objection be withdrawn.

Claims 2-6 were objected to as being dependent upon a rejected base claim. (See Office Action at page 4.) Claim 5 has been rewritten in independent form, incorporating the limitations of the base claim. In addition, the limitations of claim 2 now appear in its base claim (claim 1). Thus, all of claims 1 and 3-6 should be allowable.

Rejections under 35 USC § 102(b)

Claim 1 was rejected as allegedly anticipated by Mecham *et al.* ("Elastin degradation by matrix metalloproteinases," *J Biol Chem* 272(29):18071-18076, 1997).

The Examiner states that "Mecham *et al.* disclose a composition comprising at least one naturally occurring fragment of elastin that is produced by MMP12 proteolysis" (Office Action at page 3). Applicants respectfully disagree that Mecham *et al.* anticipates claim 1, whether

before or after the present amendment. Claim 1 references peptides identified in Table 2. Table 2 (indeed, both Table 1 and Table 2) lists peptides resulting from cleavage of human elastin by human MMP12. Mecham *et al.* incubated insoluble bovine elastin with human macrophage metalloelastase (*i.e.*, MMP12). Human elastin (724aa) and bovine elastin (747aa) are very different proteins. Digestion of these two different proteins, even by the same enzyme, will not produce the same set of cleavage products. Thus, Mecham *et al.* cannot anticipate claim 1 even prior to the present amendment. Nonetheless, Applicants have amended claim 1 to incorporate the limitations of claim 2 (now canceled). According to the Office Action at page 4, claims 2-6 are merely objected to as being dependent upon a rejected base claim, and would be allowable if rewritten in independent form. Thus, claim 1 as amended and all claims that depend from claim 1 should be allowable over Mecham *et al.*

Claim 1 was also rejected as anticipated by Kucich *et al.* (WO 91/18290A1), as evidenced by Mecham *et al.* As noted above, the Office Action confirmed that claim 2 would be allowable if rewritten in independent form. Claim 1 now includes the limitations of claim 2. Withdrawal of the rejection of claim 1 is therefore respectfully requested.

In the Restriction Requirement mailed April 23, 2008, the Examiner cited Jensen *et al.* ("Rational design of tropoelastin peptide-based inhibitors of metalloproteinases," *Arch Biochem Biophys* 409:335-340, 2003) as disclosing a special technical feature of the present claims. Applicants note for the record that Jensen *et al.* did not disclose any special technical feature of the present claims. This fact probably became apparent to the Examiner upon further review, given that Jensen *et al.* was not cited at all in the present Office Action.

Applicant : Per Broberg et al.
Serial No. : 10/572,872
Filed : March 21, 2006
Page : 6 of 6

Attorney's Docket No.: 06275-0502US1 / 100924-1P US

In view of the above, Applicants respectfully request allowance of the present claims.

The Petition for Extension of Time fee for a three-month extension (\$1110) is being paid on the electronic filing system by way of deposit account authorization. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

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